



February 12, 2001

Mr. Alan P. Petrov
Johnson Radcliffe & Petrov
Paragon Center One
450 Gears Road, Suite 700
Houston, Texas 77067-4513

OR2001-0522

Dear Mr. Petrov:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 144219.

The City of Hedwig Village (the "city"), which you represent, received a request for a log of all false alarm calls for the year 2000. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. The requestor has also submitted comments to this office. *See* Gov't Code § 552.304. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure information that is confidential by law. Information contained in alarm systems records is governed by section 1702.284 of the Occupations Code, which provides:

Information contained in alarm systems records maintained by a governmental body that concerns the location of an alarm system, the name of the occupant of an alarm system location, or the type of alarm system used is confidential and may be disclosed only to the board or as otherwise required by state law or court order.

The submitted alarm call records contain the addresses of alarm sites, the names of the occupants of alarm sites, case numbers, dates of false alarms, charges assessed, date paid, amount paid, and permit numbers. Under section 1702.284 of the Occupations Code, the addresses and names of the occupants of the alarm sites are confidential and therefore must be withheld in conjunction with section 552.101 of the Government Code. However, the remainder of the information is not protected by section 1702.284.

With respect to the information that is not confidential under section 1702.284, we will address your section 552.108(a)(2) argument. Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a

result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that “the subject log is ... excepted from disclosure pursuant to Section 552.108(a)(2) of the Act in that such log constitutes information held by a law enforcement agency that deals with the investigation of crime in relation to an investigation that did not result in conviction or deferred adjudication.” However, you have not demonstrated, beyond reciting the statute, how the information concerning false alarms relates to a criminal investigation; furthermore, we are unable to make this determination from the face of the records. Therefore, we find that you have not met your burden under section 552.108(a)(2).

Consequently, while you must withhold the names of the occupants and the addresses of the alarm sites under section 1702.284 of the Occupations Code in conjunction with section 552.101 of the Government Code, you must release the remainder of the information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general’s Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script that reads "Nathan E. Bowden".

Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/er

Ref: ID# 144219

Encl: Submitted documents

cc: Mr. Christopher Booth
3130 Rodgerdale, Suite 190
Houston, Texas 77042
(w/o enclosures)